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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,622	01/22/2004	William Wesley Jenkins	CCS-102/Clarity CSI FlexA	5053
32205	7590	08/25/2006	EXAMINER	
CARMEN B. PATTI & ASSOCIATES, LLC ONE NORTH LASALLE STREET 44TH FLOOR CHICAGO, IL 60602			WIN, AUNG T	
			ART UNIT	PAPER NUMBER
			2617	

DATE MAILED: 08/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/762,622	JENKINS ET AL.	
	<b>Examiner</b> Aung T. Win	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 January 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) 13-19 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12 & 20-44 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)               |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ .  |

**DETAILED ACTION*****Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C.

121:

I. Claim 1-12 & 20-44, drawn to Having talk group, classified in class 455, subclass 518.

II. Claim 13-19, drawn to Having display, classified in class 455, subclass 566.

1.1. Inventions are distinct, each from the other because of the following reasons:

1.2. Inventions I and II are related as subcombinations disclosed as unusable together in a single combination. The subcombinations are distinct if they are shown that at least one subcombination is separately usable. In the instant case, invention II has separate utility such as providing message notification display method for mobile terminal. See MPEP § 806.05(d).

1.3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classifications, restriction for examination purposes as indicated is proper.

During a telephone conversation with Atty. Charles Warren (Reg. No. 27,407) on August 1, 2006 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-12 & 20-44. Affirmation of this election must be made by applicant in replying to this Office action. Claim 31-43 are withdrawn

from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2.1 Claims 1-44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "flexible" cited in the claims is a relative term which renders the claim indefinite. The term "flexible" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-23, 25-33 & 35-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pelaez et al. (US 20050101303A1) in view of Dahod et al. US (US 20040224678A1).

3.1 Dahod discloses voice communication method implemented by a push-to-talk (PTT) mobile terminal [See background, summary & Figures]. The method comprises determining step i.e., if a user of the receiving terminal inputs to request i.e., accept, deny or forward the incoming PTT call request (reads on determining to initiate flexible acceptance management of incoming calls as claimed) [Figure 3: Paragraph 0044 & 0045] [Also see Background and Summary].

It is obvious one skill in the art that such determining step transmits from the receiving terminal a control request message (accept, deny or forward request message) to Internet media gateway IMG 110 serving the receiving terminal to implement incoming calls management based on user request (i.e., accept, deny or forward incoming calls). Dahod also discloses that user requested incoming calls management includes storing an initial voice message associated with incoming call to the receiving terminal [0036 & 0044].

Dahod's method does not transmit the initial voice message automatically i.e., the voice message is transmitted to user based on user input request as stated above.

Dahod's does not explicitly teach transmitting control request message as claimed. Pelaez discloses the method of activating (initiating) the voicemail/multimedia mail message (VMS/MMS) feature by entering a feature activation code (e.g., \*78) on a mobile telephone to forward the incoming calls to VMS/MMS if the user of receiving terminal is unable to take the call [0065 & 066]. Pelaez also discloses application servers for use in interaction with the mobile terminals [0059] [active and inactive status field for VMS/MMS feature: 0063] [0065 & 0066]. Therefore, Palaez teaches transmitting control message to communication servers to activate VMS/MMS feature for managing incoming calls based on transmitted control message. Features and functionality of claimed application servers are well known to skill in the art at the time of invention of made and it is expected in the modified system.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention of made to modify Dahod's method of accepting, denying or forwarding incoming calls to VMS/MMS system based on activated user present status as taught by Pelaez's method. One of ordinary skill in the art at the time of invention of made would have been motivated to do this to provide improved and resource efficient PTT system by minimizing user involvements in call treatment options when user is unable to take the call.

3.2 Claim 7 is an apparatus claim rejected for the same reason as stated above in Claim 1 rejection because claimed means substantially read on the corresponding method of Claim 1.

3.3 Claim 20 is also rejected for the same reason as stated above in Claim 1 rejection because claimed method substantially read on the corresponding method of Claim 1. Modified method teaches receiving a first control message from receiving terminal (claimed first mobile terminal) i.e., modified user present status associated call treatment options for managing the incoming PTT call (reads on providing flexible acceptance management of incoming calls as claimed) [Figure 3: Paragraph 0044 & 0045] [Also see Background and Summary] [See Claim 1 rejection].

It is obvious to skill in the art that modified method stores and updates the receiving terminal user present status in order to provide improved PTT system as stated above in Claim 1 rejection i.e., managing incoming calls based on user activated present status. Therefore, modified method also teaches claimed updating step.

Modified method also teaches routing the incoming calls so that caller of incoming calls requesting mobile terminal (claimed second mobile terminal) can leave a voice message for the first terminal [See Claim 1 rejection]. Therefore, modified method also teaches claimed receiving step for receiving an incoming

call from a second mobile as claimed and claimed storing step [Dahod: 0036 & 0044].

Modified method discloses transmitting an incoming call alert message to the receiving terminal where incoming call alert message does not contain the voice message [SMS notification message, Dahod: 0045]. Moreover, claimed transmitting and alerting step is well-known to skill in voice messaging art for notifying the user for incoming voice message calls. Modified system and method also teaches voice messaging system for storing and retrieving of voice messages. Therefore, modified method also teaches claimed transmitting step.

3.4 Claim 30 is also rejected for the same reason as stated above in Claim 20 rejection because claimed means substantially read on the corresponding method of Claim 20. It is obvious that modified communication server comprises claimed means in order to process the method claimed in Claim 20.

3.5 Claims 2 & 8 are rejected for the same reason as stated above in Claims 1 and 7 rejections because modified system and method process the incoming calls in according to user present status information associated with call treatment options i.e., accept, deny or forward incoming PTT calls to voice messaging system. It is obvious to one of ordinary skill in the art that PTT mobile

terminal is configured to alert the user of receiving terminal if the user is available to accept the call or if there is a new stored voice message for the user [See Claim 1 rejection].

3.6 Claims 3, 9, 21, 22 & 23, 31, 32, 33 are rejected for the same reason as stated above in Claims 1, 7, 20 & 30 rejections. It is obvious to one skill in the art that modified method and system teaches claimed step because the modified method is configured to retrieve the stored voice message [retrieving voice message step read on claimed steps]. Method of retrieving voice message is also very well known to one of ordinary skill in the art.

3.7 Claims 4 & 10 are rejected for the same reason as stated above in Claims 1 & 7 rejections. Modified method teaches communicating between users employing PTT communication method.

3.8 Claims 5 & 11 are rejected for the same reason as stated above in Claims 1 & 7 rejections. It is obvious to one skill in the art that modified method and system teaches claimed step because the modified method is configured to retrieve the stored voice message [retrieving voice message step read on

claimed steps]. Method of retrieving voice message is also very well known to one of ordinary skill in the art.

3.9 Claims 6 & 12 are rejected for the same reason as stated above in Claims 1 & 7 rejections. Claimed method teaches forwarding the incoming calls to voice messaging system if the user is available to take the calls. Therefore, it is obvious to one skill in the art that modified method also teaches transmitting claimed pre-recorded voice message [Palaez: TABLE 1] as claimed.

3.10 Claim 25 & 35 are rejected for the same reason as stated above in Claims 20 & 30 rejections because claimed method substantially closed to corresponding method of Claim 22. Providing indication or not providing indication as claimed is a matter of design choice and claimed method lacks credibility.

3.11 Claims 26, 27, 28, 29, 37, 38 & 39 are rejected for the same reason as stated above in Claims 20 & 30 rejections. Modified method teaches abort establishing the PTT communication sessions between terminals if the receiving terminal does not reply in predetermined time (i.e, the time required to establish

the PTT communication session) [Dahod: 0032, 0036, 0044] and further deleting initial stored voice message. Modified method also teaches establishing the PTT communication sessions between terminal if the receiving terminal reply in predetermined time [See cited disclosure of PTT communication session establishment; Dahod's reference].

4. Claims 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pelaez et al. (US 20050101303A1) in view of Dahod et al. US (US 20040224678A1), further in view of Lele et al. (US006185433B1)

4.1 Regarding Claim 40, modified method teaches claimed receiving a first control step, claimed updating step and claimed receiving step [See Claim 1, 7, 20 & 30 rejections stated above].

Modified method does not explicitly teach that transmitting second control message to the second mobile terminal in response to said request as claimed. However, Modified method is configured to send SMS notification message to the user of incoming call requesting terminal [Dahod: 0045]

Lele discloses PTT system comprising transmitting notification message (claimed second control message) to the PTT requesting terminal containing present status information of receiving terminal i.e., receiving terminal activated

busy mode [Column 2, Line 11-37] [Column 3, Line 24-36] [Column 4 – Column 6].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention of made further modify the method to provide present status information of the user as taught by Lele. One of ordinary skill in the art would have been motivated to do this to provide improved and resource efficient PTT system by avoiding unnecessary PTT call requests by the PTT requesting terminal.

4.2 Claim 43 is an apparatus claim also rejected for the same reason as stated above in Claim 40 rejection because the methods executing by claimed means substantially close to corresponding method of Claim 40.

4.3 Claims 41, 42 & 44 are rejected for the same reason as stated above in Claims 40 and 43 rejections. Modified method teaches providing requesting terminal if the receiving terminal activated or deactivated present status information i.e., available or unavailable (claimed different present status information) See Claim 40 rejection stated above.

5. Claim 24 & 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pelaez et al. (US 20050101303A1) in view of Dahod et al. US (US 20040224678A1), in view of Mathis (US 20030119540A1).

5.1 Regarding Claims 24 & 34, modified method fails to teach claimed transmitting steps. Mathis teaches claimed transmitting steps i.e., transmitting a presence status update message to mobile terminals for displaying on the mobile terminals [See Pictures and related disclosures].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention of made further modify the method to provide present status information to mobile terminals as taught by Mathis. One of ordinary skill in the art would have been motivated to do this to provide improved and resource efficient PTT system by avoiding unnecessary PTT call requests by the PTT requesting terminal.

### ***Conclusion***

The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aung T. Win whose telephone number is (571) 272-7549. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duc Nguyen can be reached on (571) 272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Group Art Unit 2617  
August 17, 2006

  
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PRIMARY EXAMINER